

**REMARKS/ARGUMENTS****I. Status of claims**

Claim 16 is amended.

Claims 18-19 are canceled.

Claims 6-8, 15, and 22-25 were previously withdrawn.

Claims 1-5, 9-14, and 16-21 are pending.

**II. Amended claim 16 and its dependent claims satisfy 35 U.S.C. §112, 1<sup>st</sup> ¶ requirements.**

Claim 16 is amended and includes the limitations of claims 18 and 19.

The present specification provides L-cysteine, an antioxidant, as an example and provides L-cysteine concentration ranges from about 100 mg/l to about 400 mg/l. Although Obregon et al. (1999), cited by the examiner does not involve use of a plant histone expressing transgenic plant to study the effects of an antioxidant, to expedite the prosecution, claim 16 is amended. Testing for a suitable antioxidant at a suitable concentration does not require undue experimentation. The examiner, on page 4 of the Action, admits that Obregon “does teach away from the disclosure in terms of optimized concentration of using L-cysteine used in transformation”.

Applicants’ disclosure that L-cysteine is a suitable antioxidant at concentrations of about 100-400 mg/l for plant zygotic material, as an example in claim 16, enables the claim 16 and its dependent claims. Therefore, amended claim 16 and its dependent claims satisfy 35 U.S.C. §112, 1<sup>st</sup> ¶ requirements.

**III. Claims 14, 16, and 20 are not obvious under 35 U.S.C §103(a) over Enriquez-Obregon et al., (1999) in view of Mysore et al. (2000).**

Claims 14 and 16 are amended. Even if Obregon and Mysore were combined, the combination still would not render the pending claims obvious because, none of the references, either alone or in combination teach all the limitations of the pending claims—monocot plants, increase in plant histone levels, antioxidant concentrations, and increase in transformation efficiency.

Therefore, applicants request the examiner to withdraw the §103(a) rejections for claim

14, 16, and 20.

**IV. Claim 21 is not obvious under 35 U.S.C §103(a) over Enriquez-Obregon et al., (1999) in view of Mysore et al. (2000) and Yu et al. (US 6,215,051).**

On page 8 of the Action, the examiner admits that Obregon and Mysore do not teach transforming embryo. Claim 16 is amended and claim 21 depends from claim 16. As discussed herein on sections II-III above, even if all the these publications were combined, the combination still would not meet all the limitations of claim 21, because, an increase in transformation efficiency (as opposed to mere transformation) and antioxidant concentrations were not shown for a monocot host plant that was transformed by *Agrobacterium* starting with a plant zygotic material.

Therefore, applicants request withdrawal of this rejection and allowance of claim 21.

**V. Claim 17 is not obvious under 35 U.S.C §103(a) over Enriquez-Obregon et al., (1999) in view of Mysore et al. (2000) and Narasimhulu et al. (1996).**

On page 9 of the Action, the examiner admits that Obregon and Mysore do not teach transforming a maize plant.

Claim 17 depends from amended claim 16. Even if these references were combined, the combination still would not render claim 17 obvious because, all the limitations of the pending claims—maize plant, increase in plant histone levels, antioxidant concentrations, and increase in transformation efficiency—are not taught.

Therefore, applicants request withdrawal of this rejection and allowance of the pending claim 17.

**VI. Double patenting rejections.**

A terminal disclaimer is filed herein to overcome the double patenting rejections over U.S. Pat. No. 6,696,622 and U.S. Ser. No. 10/098,161 (now U.S. Pat. No. 7,122,716).

**VII. Other issues.**

Applicants thank the examiner for withdrawing some of the 112 rejections and objections

to the specification.

If there are any remaining issues, applicants request that the examiner call the applicants' representative to resolve any pending issue before issuing an advisory action.

A one-month extension request is concurrently filed. No fees are believed due at this time, however, please charge any deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (3220-94790).

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in dark ink, appearing to read "Alice O. Martin", is written over a horizontal line.

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